

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:08CR3067
	)	
v.	)	
	)	
GARY ZIERKE, JR.,	)	MEMORANDUM
	)	AND ORDER
Defendant.	)	
_____	)	

The United States has filed a notice (filing no. 313) noting the Supreme Court's decision in *Beckles v. United States*. The United States further asserts that the holding in *Johnson*, therefore, does not apply to the Guideline issues raised by the defendant in this case. Accordingly,

IT IS ORDERED that:

(1) If the defendant disagrees with the government, the defendant shall file a notice of disagreement together with a supporting brief no later than April 3, 2017.

(2) If no notice of disagreement and brief are filed by the defendant, the pending § 2255 motion in this case will be dismissed without prejudice.

(3) If a notice of disagreement and brief are filed by the defendant, I will issue a decision determining whether *Beckles* is dispositive.

DATED this 24<sup>th</sup> day of March, 2017.

BY THE COURT:  
s/ *Richard G. Kopf*  
Senior United States District Judge